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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EDNA M. SONSTENG,)	
)	
Plaintiff,)	Case No. CV06 476 KI
)	
v.)	
)	
THE DOMINICAN SISTERS OF ONTARIO,)	MOTIONS TO DISMISS
INC., an Oregon non-profit corporation, dba)	AMENDED COMPLAINT
Holy Rosary Medical Center; JOSEPH J.)	By Defendant Boyle
BOYLE, M.D.; and, FRANK J. SPOKAS, M.D.,)	
)	
Defendants.)	

Certification Under LR 7.1

Counsel for defendant Joseph J. Boyle, M.D., and plaintiff's counsel made a good faith effort through telephone conference to resolve the disputes and have been unable to do so.

Motion

Defendant Boyle moves the court for its Orders as follows:

1. Dismissing plaintiff's claim for a survival action on the ground that the amended complaint fails to state a claim upon which relief can be granted as a survival action;
2. Dismissing Count I of the amended complaint on the ground that the first count shows on its face that it is barred by the statute of limitations because it does not allege a misrepresentation sufficient to toll the ultimate repose period, five years from the date of treatment, as

to defendant Boyle.

3. Dismissing Count II of the amended complaint on the ground that the second count shows on its face that it is barred by the statute of limitations because it does not allege facts sufficient to toll the five-year ultimate repose period as to defendant Boyle.

Defendant Boyle relies on FRCP 12(b)(6) and the accompanying memorandum.

s/ David C. Landis
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(503) 224-5680
Attorney for Defendant Boyle

CERTIFICATE OF SERVICE

I certify that I served the foregoing MOTIONS TO DISMISS THE AMENDED COMPLAINT on:

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on October __10__, 2006: via facsimile transmission and regular U.S. Mail, contained in a sealed, postage-paid envelope, addressed to counsel of record as shown above, and deposited with the Port Office at Portland, Oregon on said date.

s/David C. Landis
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